

AMENDED IN ASSEMBLY MAY 3, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2299

Introduced by Assembly Member Feuer

February 24, 2012

An act to amend Section 6254.1 of, and to add Sections 27279.5 and 27279.7 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, as amended, Feuer. Local government: public safety officials: confidentiality.

Existing law sets forth the duties and powers of the board of supervisors of a county and the county recorder and county assessor of each county. Existing law requires the county recorder to, upon payment of proper fees and taxes, accept for recordation, any instrument, paper, or notice that is authorized or required by statute or court order to be recorded, as specified. Existing law allows any instrument or judgment affecting the title to, or possession of, real property to be recorded. Existing law requires a document that effects or evidences a transfer or encumbrance of an interest in real property to include the name or names in which the interest appears of record. Existing law requires the county recorder of each county to establish a social security truncation program for the redaction of social security numbers to create a public record version of official records.

This bill would authorize the board of supervisors of a county to establish a program that requires the names of certain public safety officials to be redacted from any property record of principal residence

that is disclosed to the public by that county, except as specified. The bill would authorize a county to charge a fee for participation in the program. The bill would set forth requirements that would apply to the sale of aggregate data.

Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to authorize the board of supervisors of any county to establish
3 a county program to redact the name of a public safety official
4 from a property record that contains the address of the principal
5 residence of the public safety official. A public safety official is
6 defined for purposes of this act as an official employed by a public
7 agency responsible for law enforcement, the justice system, or
8 corrections.

9 SEC. 2. Section 6254.1 of the Government Code is amended
10 to read:

11 6254.1. (a) Except as provided in Section 6254.7, this chapter
12 shall not require disclosure of records that are the residence address
13 of any person contained in the records of the Department of
14 Housing and Community Development, if the person has requested
15 confidentiality of that information, in accordance with Section
16 18081 of the Health and Safety Code.

17 (b) This chapter shall not require the disclosure of the residence
18 or mailing address of any person in any record of the Department
19 of Motor Vehicles except in accordance with Section 1808.21 of
20 the Vehicle Code.

1 (c) This chapter shall not require the disclosure of the results
2 of a test undertaken pursuant to Section 12804.8 of the Vehicle
3 Code.

4 (d) This chapter shall not require disclosure of the name of any
5 public safety official contained in any property record of a county
6 that is disclosed to the public, if the public safety official has
7 requested confidentiality of that information, in accordance with
8 Section 27279.5, and the county maintains a program that redacts
9 that information from property records pursuant to Section 27279.5.

10 SEC. 3. Section 27279.5 is added to the Government Code, to
11 read:

12 27279.5. (a) The board of supervisors of a county may
13 establish a program that requires the name of a public safety official
14 to be redacted from any property record that is disclosed to the
15 public by that county.

16 (b) Subdivision (a) shall apply only to a public safety official
17 described in Section 27279.7 who has requested that his or her
18 name be redacted from a property record that is disclosed to the
19 public by that county. *The county shall prepare and maintain a*
20 *list specifying those job classifications eligible to request redaction*
21 *as public safety officials pursuant to Section 27279.7.* The county
22 may prescribe the form or application by which a request of
23 confidentiality shall be submitted pursuant to this subdivision.

24 (c) Notwithstanding subdivisions (a) and (b), this section shall
25 not preclude a county from using or maintaining records internally
26 that include the name of a public safety official who has requested
27 redaction under the program.

28 (d) (1) The county may charge a fee for participation in the
29 program, provided the fee is reasonable and charged to cover only
30 the costs of the program.

31 (2) *The county shall require an individual to show valid photo*
32 *identification and proof of employment eligibility as a precondition*
33 *of requesting redaction under the program.*

34 (e) (1) A county that chooses to establish a program pursuant
35 to this section that sells aggregate data shall further require that
36 the names of program participants remain confidential and not be
37 posted on any Internet Web site or solicited, sold, or traded.

38 (2) A public safety official whose name is made public as a
39 result of a violation of paragraph (1) may bring an action seeking
40 injunctive or declarative relief in any court of competent

1 jurisdiction. If a court finds that a violation has occurred, it may
2 grant injunctive or declarative relief and shall award the official
3 court costs and reasonable attorney's fees. A fine not exceeding
4 one thousand dollars (\$1,000) may be imposed for a violation of
5 the court's order for an injunction or declarative relief obtained
6 pursuant to this paragraph.

7 (3) A public safety official whose name is solicited, sold, or
8 traded in violation of paragraph (1) may bring an action in any
9 court of competent jurisdiction. If a jury or court finds that a
10 violation has occurred, it shall award damages to that public safety
11 official in an amount up to a maximum of three times the actual
12 damages but in no case less than four thousand dollars (\$4,000).

13 (f) Notwithstanding any other provision of this section, the
14 following shall apply:

15 (1) A county that exercises reasonable care shall not be held
16 civilly liable for the unintentional disclosure of the name of a public
17 safety official.

18 (2) *For purposes of this section, a county shall have exercised*
19 *reasonable care if it redacts those documents identified by*
20 *conducting an electronic or index search of records based upon*
21 *the name of the public safety official.*

22 ~~(2)~~
23 (3) The name of a public safety official shall be released upon
24 request of the public safety official.

25 (g) For purposes of this section and Section 27279.7, the
26 following definitions shall have the following meanings:

27 (1) "Post" means to intentionally communicate or otherwise
28 make available to the general public.

29 (2) "Property record" means a property record that contains the
30 address of principal residence of the public safety official.

31 (3) "Public safety official" means a person listed in Section
32 27279.7 who is eligible for, or participates in, the program.

33 SEC. 4. Section 27279.7 is added to the Government Code, to
34 read:

35 27279.7. (a) The name of any of the following public safety
36 officials, ~~whether active current or retired former~~, shall be redacted
37 from a property record pursuant to Section 27279.5 if the public
38 safety official requests the confidentiality of that information:

39 (1) An employee of a federal, state, or local law enforcement
40 agency, not under suspension or otherwise lacking in good

1 standing, except an employee whose principal duties are clerical
2 or who is not engaged in law enforcement operations.

3 (2) A judge, federal magistrate, court commissioner, or referee
4 who has statutory authority to preside in criminal proceedings.

5 (3) An attorney of a federal, state, or local prosecutorial or
6 defense agency who represents that office in criminal matters.

7 (4) An employee of a federal, state, or local prosecutorial or
8 defense agency whose responsibilities routinely place that
9 employee in personal contact with persons under investigation for,
10 charged with, or convicted of, committing criminal acts.

11 (5) An employee of a federal, state, or local agency who
12 supervises inmates or is required to have a prisoner in his or her
13 care or custody, or a probation officer or parole agent.

14 (b) Notwithstanding subdivision (a), Section 27279.5 and this
15 section shall not apply to an elected official in an elected office,
16 or to a person who has been appointed on a temporary basis to fill
17 a vacancy in an elected office, when that elected office is the
18 attorney general, district attorney, sheriff, public defender, or city
19 attorney or prosecutor.

20 (c) The name of a public safety official listed in subdivision (a)
21 shall not be disclosed pursuant to Section 27279.5, except to any
22 of the following:

23 (1) A court.

24 (2) A law enforcement agency.

25 (3) The State Board of Equalization.

26 (4) An attorney in a civil or criminal action that demonstrates
27 to a court the need for the name, if the disclosure is made pursuant
28 to a subpoena.

29 (5) A governmental agency to which, under any law, information
30 is required to be furnished from records maintained by the county.

31 SEC. 5. The Legislature finds and declares that this act imposes
32 a limitation on the public's right of access to the meetings of public
33 bodies or the writings of public officials and agencies within the
34 meaning of Section 3 of Article I of the California Constitution.
35 Pursuant to that constitutional provision, the Legislature makes
36 the following findings to demonstrate the interest protected by this
37 limitation and the need for protecting that interest:

- 1 In order to prevent crimes against public safety officials and
- 2 their families, it is necessary that this act take effect.

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